

**In the United States Court of Federal Claims**

**OFFICE OF SPECIAL MASTERS**

Filed: March 14, 2024

\* \* \* \* \*

E.A.,

\* UNPUBLISHED

\*

Petitioner,

\* No. 18-1587V

\*

v.

\* Special Master Dorsey

\*

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

\* Damages Award; Influenza (“Flu”)  
\* Vaccine; Bell’s Palsy.

\*

Respondent.

\*

\*

\* \* \* \* \*

Ronald C. Homer, Conway Homer, P.C., Boston, MA, for Petitioner.

Neil Bhargava, U.S. Department of Justice, Washington, DC, for Respondent.

**DECISION AWARDING DAMAGES BASED ON PROFFER**<sup>1</sup>

On October 12, 2018, E.A. (“Petitioner”) filed a petition for compensation under the National Vaccine Injury Compensation Program (“Vaccine Act” or “the Program”), 42 U.S.C. § 300aa-10 *et seq.* (2018).<sup>2</sup> Petitioner alleged that she suffered Bell’s palsy as the result of an influenza (“flu”) vaccination administered on October 19, 2015. Petition at Preamble (ECF No. 1). On January 24, 2023, the undersigned issued a ruling finding Petitioner entitled to compensation. Ruling on Entitlement dated Jan. 24, 2023 (ECF No. 112).

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<sup>1</sup> Because this Decision contains a reasoned explanation for the action in this case, the undersigned is required to post it on the United States Court of Federal Claims’ website and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc> in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the Internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

<sup>2</sup> The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-10 to -34 (2018). All citations in this Decision to individual sections of the Vaccine Act are to 42 U.S.C. § 300aa.

On March 14, 2024, Respondent filed a Proffer on Award of Compensation (“Proffer”), attached hereto as Appendix A. In the Proffer, Respondent represented that Petitioner agrees with the proffered award. Proffer at 1-2. Based on the record as a whole, the undersigned finds that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, the undersigned awards Petitioner:

**(1) A lump sum payment of \$191,023.25, representing compensation for pain and suffering (\$190,000.00), and past unreimbursable expenses (\$1,023.25) in the form of a check payable to Petitioner.**

Proffer at 1-2.

In the absence of a motion for review filed pursuant to RCFC Appendix B, the Clerk of the Court **SHALL ENTER JUDGMENT** herewith.<sup>3</sup>

**IT IS SO ORDERED.**

s/Nora Beth Dorsey  
Nora Beth Dorsey  
Special Master

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<sup>3</sup> Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties’ joint filing of notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS  
OFFICE OF SPECIAL MASTERS**

E.A.,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

No. 18-1587V  
Special Master Dorsey  
ECF

**RESPONDENT'S PROFFER ON AWARD OF COMPENSATION**

On October 12, 2018, E.A. ("petitioner") filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 ("Vaccine Act" or "Act"), alleging that she suffered a neurological injury, namely, Bell's palsy, as the result of an influenza ("flu") vaccination she received on October 19, 2015. Petition at 1. On January 24, 2023, the Special Master issued a Ruling on Entitlement finding petitioner entitled to compensation. ECF No. 112.

**I. Items of Compensation**

**A. Pain and Suffering**

Respondent proffers that petitioner should be awarded \$190,000.00 in pain and suffering.

*See* 42 U.S.C. § 300aa-15(a)(4). Petitioner agrees.

**B. Past Unreimbursable Expenses**

Evidence supplied by petitioner documents that she incurred past unreimbursable expenses related to her vaccine-related injury. Respondent proffers that petitioner should be

awarded past unreimbursable expenses in the amount of \$1023.25. *See* 42 U.S.C. § 300aa-15(a)(1)(B). Petitioner agrees.

**II. Form of the Award**

Petitioner is a competent adult. Evidence of guardianship is not required in this case. Respondent recommends that the compensation provided to petitioner should be made through lump sum payments as described below and requests that the Special Master's decision and the Court's judgment award the following<sup>1</sup>:

A. A lump sum payment of \$191,023.25, in the form of a check payable to petitioner.

**III. Summary of Recommended Payments Following Judgment**

A. Lump sum payable to petitioner, E.A..	<b>\$191,023.25</b>
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Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

C. SALVATORE D'ALESSIO  
Director  
Torts Branch, Civil Division

HEATHER L. PEARLMAN  
Deputy Director  
Torts Branch, Civil Division

ALEXIS B. BABCOCK  
Assistant Director  
Torts Branch, Civil Division

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<sup>1</sup> Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future, unreimbursed expenses, future lost earnings and future pain and suffering.

/s/ Neil Bhargava  
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Date: March 14, 2024